MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2015/2016

UAD 2612 – ALTERNATIVE DISPUTE RESOLUTION

(All Sections/Groups)

3 JUNE 2016

Reading Time : 9.00 a.m. – 9.15 a.m.

(15 Minutes)

Answering Time : 9.15 a.m. – 12.15 p.m.

(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes. ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the question.
2. This Question paper consists of 3 Pages and 5 Questions only.
3. Answer **FOUR (4) Questions Only**. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into the examination hall CLEAN and ORIGINAL copy of:
   i. Arbitration Act 2005 (Act 646)
   ii. Arbitration (Amendment) Act A1395
   iii. Holy Quran (Translation)
5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

The Mediation Act 2012 (Act 749) came into force on 1st August, 2012 with the aim of promoting and encouraging mediation as a method of Alternative Dispute Resolution. It is also meant to facilitate the settlement of disputes in a fair, speedy and cost-effective manner.

Explain the following concepts of mediation:

(a) Mediation Agreement (5 marks)

(b) Mediation Process (5 marks)

(c) Court Mediation (5 marks)

(d) Evaluative Mediation (5 marks)

(e) Transformative Mediation (5 marks)

(Total: 25 marks)

QUESTION 2

In conducting mediation, the soft-skills and techniques of the mediator play an important role in the success of the mediation session. Explain the following:

(a) Reframing (5 marks)

(b) Mirroring (5 marks)

(c) Anchoring (5 marks)

(d) Active Listening (5 marks)

(e) Passive Listening (5 marks)

(Total: 25 marks)

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QUESTION 3

In *Satriadesa Corporation Sdn Bhd v. Kerajaan Malaysia & Anor* [2010] MLJU 1416, [2010] 4 CLJ 877, [2010] 7 AMR 548, Hamid Sultan J stated:

"In my view if there is a provision for arbitration clause to deal with disputes relating to the contract and the beneficiary of the performance bond is in the position to repay if the arbitration award is against them then as a general rule injunction must not be granted, where there is no allegation, fraud or it's like".

Discuss the relevant statutory provision in the Arbitration Act 2005 (Act 646) and the grounds for the High Court to grant interim measures. Support your answer with decided cases.

(Total: 25 marks)

QUESTION 4

Explain the following concepts in arbitration and support your answer with the relevant provision of the Arbitration Act 2005 (Act 646):

(a) arbitration agreement (5 marks)

(b) opt-in and opt-out (5 marks)

(c) party autonomy (5 marks)

(d) seat of arbitration (5 marks)

(e) choice of language (5 marks)

(Total: 25 marks)

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QUESTION 5

Explain the various processes of Alternative Dispute Resolution (ADR) in Islam:

(a) Nasihah (Counselling) (5 marks)

(b) Tahkim (Arbitration) (5 marks)

(c) Muhtasib (Ombudsman) (5 marks)

(d) Wali al- Mazalim (Special Tribunals or Chancery) (5 marks)

(e) Med- Arb (5 marks)

(Total: 25 marks)

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